

Defendants.

CIVIL NO. 6:19-CV-00118-JDK-JDL

DWAYNE M. GARRETT, PAUL LEROY
WICKHAM, and JENNIFER LEANN
MCCORMICK,

Plaintiff,

V.

ROBERT S. MUELLER III, UNITED STATES
OF AMERICA, STATE OF OKLAHOMA,
CARL GIBSON, MIKE HUNTER, DOUGLAS
L. COMBS, RICKY ADAMS, TIMOTHY M.
TYMKOVICH, ELIZABETH SCHUMAKER,
TERENCE KERN, GREGORY FRIZZELL,
CLAIRE EAGAN, JOHN DOWDELL, and
NOWATA COUNTY

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

The three above entitled and numbered civil actions were referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. Plaintiff Dwayne Marvin Garrett (“Mr. Garrett”), joined in some cases by Shirley Garrett Webster (“Ms. Garrett”), Paul Leroy Wickham, and Jennifer Leann McCormick (collectively “Plaintiffs”), all proceeding pro se, have filed these lawsuits against various Defendants. On May 3, 2019, the Magistrate Judge issued his omnibus Report and Recommendation (Case No. 6:19-cv-00031, Docket No. 19), recommending that the three above captioned actions be dismissed with prejudice and that Plaintiffs Dwayne Marvin Garrett and Shirley Garrett Webster be sanctioned. Plaintiffs filed Objections (Case No. 6:19-cv-00031, Docket No. 21; Case No. 6:19-cv-00118, Docket No. 17; Case No. 6:19-cv-00119, Docket No. 16) to the Report and Recommendation on May 13, 2019.¹

¹ Plaintiffs filed their objections as three separate documents across all three cases. The only apparent differences are the caption and the parties signing the objections. There does not appear to be any difference in the substantive content across the three objections.

The Court reviews de novo the portions of the Magistrate Judge's findings to which objections have been raised. 28 U.S.C. § 636(b)(1). Having reviewed the Magistrate Judge's findings and Plaintiffs' objections, the Court **OVERRULES** Plaintiffs' Objections (Case No. 6:19-cv-00031, Docket No. 21; Case No. 6:19-cv-00118, Docket No. 17; Case No. 6:19-cv-00119, Docket No. 16) and **ADOPTS** the Magistrate Judge's Report and Recommendation (Case No. 6:19-cv-00031, Docket No. 19) as the findings of the Court.

I. LEGAL STANDARD

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See* FED. R. CIV. P. 72; 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). A court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United States Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

II. ANALYSIS

Plaintiffs' Objections, which are captioned as "Objection to So-Called Recommendation of United States Magistrate Judge that was filed May 03, 2019," state:

Warning! John D. Love, in violation of 28 USC 636(c), and 28 USC 1332, and 24-4-173, and 28 USC 1001, you are in violation, and a tort claim is inevitable, and will be filed at a later date.

(Case No. 6:19-cv-00031, Docket No. 21; Case No. 6:19-cv-00118, Docket No. 17; Case No. 6:19-cv-00119, Docket No. 16.)

As the Magistrate Judge described in his Report and Recommendation, the Magistrate

Judge had authority to issue his Report and Recommendation pursuant to 28 U.S.C. § 636(b). Plaintiffs were advised they had an opportunity to object to the findings contained in the Report and Recommendation and obtain de novo review from the undersigned. Plaintiffs have filed objections, but have failed to address the merits of any of the findings made by the Magistrate Judge. Accordingly, Plaintiffs objections are without merit.

After reviewing Plaintiffs' objections and the relevant pleadings and filings in these cases, the Court agrees with the Magistrate Judge's determination that these actions fail to state any claim upon which relief may be granted and that Plaintiffs Dwayne Marvin Garrett and Shirley Garrett Webster have violated Federal Rule of Civil Procedure 11(b). Accordingly, the Court finds that the Magistrate Judge appropriately determined that the three above captioned cases should be dismissed with prejudice and that Plaintiffs Dwayne Marvin Garrett and Shirley Garrett Webster should be sanctioned.

III. CONCLUSION

Having made a de novo review of the objected-to portions of the Report and Recommendation (Case No. 6:19-cv-00031, Docket No. 19), the Court finds, for the reasons explained above, that Plaintiffs' Objections (Case No. 6:19-cv-00031, Docket No. 21; Case No. 6:19-cv-00118, Docket No. 17; Case No. 6:19-cv-00119, Docket No. 16) should be **OVERRULED** and the Magistrate Judge's Report (Case No. 6:19-cv-00031, Docket No. 19) should be **ADOPTED**. The three above captioned cases are **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted. Furthermore, the Court **ORDERS** that all other pending motions be **DENIED** as **MOOT**.

Furthermore, the Court **ORDERS** that this Court adopt the filing restrictions originally imposed by the Northern District of Oklahoma. Specifically, the Court **ORDERS** that Dwayne


Marvin Garrett and Shirley Garrett Webster be **ENJOINED** from proceeding as a plaintiff in a proceeding in this District unless they are represented by a licensed attorney admitted to practice in this Court or unless they first obtain permission to proceed pro se. To obtain permission to proceed pro se, Dwayne Marvin Garrett and Shirley Garrett Webster must take the following steps:

1. File a petition with the clerk of this Court requesting leave to file a pro se action;
2. Include in the petition the following information:
 - a. A list of all lawsuits currently pending or filed previously with this Court, including the name and number of each case, and the current status or disposition of the lawsuit; and
 - b. A list apprizing this Court of all outstanding injunctions or orders limiting their access to federal court, including orders and injections requiring Dwayne Marvin Garrett or Shirley Garrett Webster to seek leave to file matters pro se or requiring them to be represented by an attorney, including the name and case number of all such orders or injunctions; and
3. File with the clerk a notarized affidavit, in proper legal form, which recites the issues they seek to present, including a short discussion of the legal basis of the claim asserted, and describing with particularity the facts giving rise to said claims. The affidavit also must certify, to the best of their knowledge, that the legal arguments being raised are not frivolous or made in bad faith, that they are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, that the lawsuit is not interposed for any improper purpose, and that they will comply with all local rules of this Court.

These documents shall be submitted to the Clerk of the Court, who shall refer them to a

Magistrate Judge for review to determine whether the complaint is lacking in merit, duplicative, or frivolous. If the Magistrate Judge determines that any of the foregoing is true, the complaint is transmitted to a District Judge for further review. Without a District Judge's approval, the matter will be dismissed. If the District Judge approves the filing, an order shall be entered indicating that the complaint shall proceed in accordance with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Eastern District of Texas. In addition, Dwayne Marvin Garrett and Shirley Garrett Webster shall accept and not return any papers from this Court.

So **ORDERED** and **SIGNED** this **16th** day of **May, 2019**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE